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| HARRINGTON & SMITH, PC | | | EXAMINER | |
| 4 RESEARCH DRIVE, Suite 202 | | | MAGLOIRE, VLADIMIR | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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| Office Action Summary | Application No. 10/534,102 | Applicant(s) PEDERSEN ET AL. |
| | Examiner VLADIMIR MAGLOIRE | Art Unit 2617 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(o).

Status

- 1) Responsive to communication(s) filed on 06 May 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) 3 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 May 2005 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1668)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application
 6) Other: _____

DETAILED ACTION

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The limitations of claim 3 as described were not found in the specification, please make appropriate corrections.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Regarding claims 1 and 5, the phrase "operable to" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
3. The term "similar" in claim 5 is a relative term which renders the claim indefinite. The term "similar" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Appropriate correction is required.
4. The term "substantially" in claim 3 is a relative term which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 2, 4-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Hwang (US 2003/0072290 A1).

Consider claim 1, Hwang discloses a radio transmitter device in which data indicating a transport format combination is coded and combined with content data for incorporation in a radio packet (**see Hwang, abstract**) the device being operable to include in a radio packet for a full-rate channel a code selected from a set which relates transport format combination data to codes (**see Hwang, paragraph [0067], discloses each TFCI indicates a different data rate, therefore “operable to include in a radio packet for a full-rate channel a code selected from a set which relates transport format combination data to codes”**), the codes having more bits than and identifying the corresponding transport format combination data (**see Hwang, paragraph [0069], discloses a TFCI coding rate of (32,10)**), and operable in a mode in which data is transmitted on a channel at a lesser rate than in the full-rate channel to include in a radio packet coded transport format combination data constituting a part less than the whole of a code selected from the set of codes. (**see Hwang, paragraphs [0070-72]**)

discloses each TFCI indicates a different data rate and that different data rates are punctured differently, therefore “operable in a mode in which data is transmitted on a channel at a lesser rate than in the full-rate channel to include in a radio packet coded transport format combination data”)

Regarding claim 5, a radio transmitter device in which data indicating a transport format combination is coded and combined with content data for incorporation in a radio packet (**see Hwang, abstract**), the device being operable to include in a radio packet for a full-rate channel an amount of coded transport format combination data which gives rise to a particular ratio of the performance of the coding of the transport format combination data to the performance of the coded content data (**see Hwang, paragraph [0069-0072], fig. 2 item 210 and 220, discloses multiplexing of the TFCI codewords and information symbol, which are combined in specific ratios, and spread and transmitted, therefore inherently contains a particular ratio of the performance of the coding of the transport format combination data to the performance of the coded content data**), and operable in a mode in which data is transmitted on a channel at a lesser rate than on a full-rate channel to include in a radio packet an amount of coded transport format combination data which gives rise to a ratio of the performance of the coding of the transport format combination data to the performance of the coded content data which is at a similar level to the ratio in the full-rate channel (**see Hwang, paragraph [0041, 0069-0072], fig. 2 item 210 and 220, discloses multiplexing of information and TFCI data, therefore a device operable “in a mode in which data is transmitted on a channel at a lesser rate than on a**

full-rate channel to include in a radio packet an amount of coded transport format combination data which gives rise to a ratio of the performance of the coding of the transport format combination data to the performance of the coded content data which is at a similar level to the ratio in the full-rate channel").

Consider claim 10, Hwang discloses a method of operating a radio transmitter in which data indicating a transport format combination is coded and combined with content data for incorporation in a radio packet (see Hwang, paragraph [0041]), the method comprising including in a radio packet for a full-rate channel a code selected from a set which relates transport format combination data to codes (see Hwang, paragraph [0067], discloses each TFCI indicates a different data rate, therefore “**operable to include in a radio packet for a full-rate channel a code selected from a set which relates transport format combination data to codes**”), the codes having more bits than and identifying the corresponding transport format combination data (see Hwang, paragraph [0069], discloses a TFCI coding rate of (32,10)), and, in a mode in which data is transmitted on a channel at a lesser rate than in the full-rate channel (see Hwang, paragraph [0041]), including in a radio packet coded transport format combination data constituting a part less than the whole of a code selected from the set of codes (see Hwang, paragraphs [0070-72] discloses each TFCI indicates a different data rate and that different data rates are punctured differently, therefore “**in a mode in which data is transmitted on a channel at a lesser rate than in the full-rate channel to include in a radio packet coded transport format combination data**”).

Consider claim 11, Hwang discloses a method of operating a radio transmitter in which data indicating a transport format combination is coded and combined with content data for incorporation in a radio packet (**see Hwang, paragraph [0041]**), the method comprising: including in a radio packet for a full-rate channel an amount of coded transport format combination data which gives rise to a particular ratio of the performance of the coding of the transport format combination data to the performance of the coded content data (**see Hwang, paragraph [0069-0072], fig. 2 item 210 and 220, discloses multiplexing of the TFCI codewords and information symbol, which are combined in specific ratios, and spread and transmitted, therefore inherently contains a particular ratio of the performance of the coding of the transport format combination data to the performance of the coded content data**), and, in a mode in which data is transmitted on a channel at a lesser rate than on a full-rate channel (**see Hwang, paragraph [0041]**), including in a radio packet an amount of coded transport format combination data which gives rise to a ratio of the performance of the coding of the transport format combination data to the performance of the coded content data which is at a similar level to the ratio in the full-rate channel (**see Hwang, Table 1, discloses varied rates at similar ratios full rate**).

Regarding claim 2 and 6, Hwang discloses, including a flexible layer one (**see Hwang, paragraph [00038-0041], discloses a flexible layer one**).

Regarding claim 4, Hwang discloses a device as claimed in claim 1, in which the coded transport format combination data for the lesser-rate channel forms a central segment of a code selected from the set (**given that the TFCI codewords specify full**

and partial data rates, the majority of codewords will not be full rates therefore the lesser rate codewords will form a central segment of the code set).

Regarding claim 7, a device as claimed in claim 1, comprising an interleaver for interleaving the coded transport format combination data with the coded content data (examiner takes official notice that an interleaving codewords and content data was well known in the art the time of the invention).

Regarding claim 8, Hwang discloses a mobile telephone comprising a radio transmitter device as claimed in claim 1 (see Hwang, paragraph [0005-0006], discloses downlink and uplink transmission in a CDMA mobile communications system, therefore a mobile phone radio transmitter).

Regarding claim 9, Hwang discloses a base transceiver station comprising a radio transmitter device as claimed in claim 1 (see Hwang, paragraph [0005-0006], discloses downlink and uplink transmission in a CDMA mobile communications system, therefore a base station).

Regarding claim 12, Hwang discloses a base transceiver station comprising a radio transmitter device as claimed in claim 5 (see Hwang, paragraph [0005-0006], discloses downlink and uplink transmission in a CDMA mobile communications system, therefore a base station).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VLADIMIR MAGLOIRE whose telephone number is

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(571)270-5144. The examiner can normally be reached on Monday to Thursday, 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro can be reached on 571-272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/NICK CORSARO/
Supervisory Patent Examiner, Art Unit 2617

/Mladimir Magloire/
Examiner, Art Unit 2617 2/4/09